



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

APRIL 9, 2002

PRESENT: Acevedo, Benich, Lyle, Mueller, Sullivan, Weston

ABSENT: None

LATE: McMahon, who arrived and was seated at 7:15 p.m.

STAFF: Senior Planner (SP) Linder and Minutes Clerk Johnson

Chair Sullivan called the meeting to order at 7:05 p.m.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Sullivan opened the public hearing.

With no persons indicating a wish to speak, the public hearing was closed.

CONSENT CALENDAR:

**1) ADOPTION OF
RESOLUTION
APPROVING
FINAL PROJECT
SCORES FOR THE
FY 2001-02
MEASURE P
OPEN MARKET
COMPETITION**

Adopt Resolution No. 02-26, approving the final project scores for FY 2001-02 Measure P Open Market Competition.

COMMISSIONERS MUELLER/LYLE OFFERED RESOLUTION NO. 02-26, APPROVING FINAL PROJECT SCORES IN THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM OPEN/MARKET COMPETITION FOR THE FISCAL YEAR 2003-04 BUILDING ALLOTMENT. THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, LYLE, MUELLER, SULLIVAN, WESTON; NOES: NONE; ABSENT: McMAHON; ABSTAIN: NONE.

OLD BUSINESS:

**2) UPA-98-07:
MONTEREY-
IRISH
CONSTRUCTION**

A request for approval to amend an existing conditional use permit to demolish an existing 2,000-sf office use within an 18,390-sf construction office and staging yard, and replace with a 3,976-sf office space. The subject site is located at the southeast corner of Monterey Road and Burnett Avenue.

SP Linder gave the staff report. The site is currently developed with the existing Irish Construction facility. The proposed amendment would not alter the use of the site, other than an expansion of the existing administrative office by 1,124 sq. ft.

SP Linder said that overall, the proposed use permit amendment is not anticipated to adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area, or impair the utility or value of property of other persons located in the vicinity of the site, or be detrimental to public health, safety or general welfare. SP Linder said, that as a condition of approval, Staff recommends that the new office and existing warehouse be designed to give the appearance of a single freestanding structure. The existing warehouse shall also be enhanced to better relate with the new office building, including but not limited to painting the warehouse building to match the office. In order to further enhance the site design, Staff recommends that landscaping be required along the north side of the building. In addition, Staff recommends that the existing Chevrolet wall sign located on the south elevation of the 3,950-sf building be removed prior to issuance of building permit. A more detailed review of the building design, site layout, and landscape plan would occur as part of the required site review process.

Commissioners had several questions for SP Linder, dealing with:

- fire department review
- interaction with Irish Construction corporate officials
- if, when Burnett Ave is widened, there is sufficient projected room for the required 22' building set-back
- whether the in-place landscaping met the original indication(s) of the Commission
- the use permit conditions being addressed by the Architectural Review Board (ARB)

Chair Sullivan opened the public hearing.

Pat D. Furnare, 2649 Stingle Ave., Rosemead, representing the applicant, indicated the corporate officials had received the staff report and were in agreement with the conditions. Questioned regarding the fence at the southern end of the project, Mr. Furnare said they did not have the availability of being able to 'slat' the fence at the beginning but were willing to do so now. In discussion with Mr. Funare, Commissioners indicated that 'slatting' the fence would not solve the identified problems and that the landscaping in place had not been in accordance with the direction provided at the time of the original use permit. He did not present objection to the matter being sent to the ARB for input.

The public hearing was closed.

COMMISSIONERS MUELLER/BENICH OFFERED RESOLUTION NO. 01-29, APPROVING AN AMENDMENT TO RESOLUTION NO. 98-78 TO ALLOW FOR THE REPLACEMENT OF A 2,000-SF OFFICE WITH A 3,124-SF OFFICE AT THE IRISH CONSTRUCTION FACILITY LOCATED AT THE SOUTHEAST CORNER OF MONTEREY ROAD AND BURNETT AVENUE, WITH THE INCLUSION OF SECTION 6: THE APPROVED PROJECT SHALL BE SUBMITTED TO THE ARCHITECTURAL REVIEW BOARD FOR LANDSCAPING PLANS TO ENSURE THAT THE PARKING AND STORAGE AREAS ON THE SOUTH ARE VISUALLY BLOCKED. THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, LYLE, MUELLER, SULLIVAN, WESTON; NOES: NONE; ABSTAIN: McMAHON; ABSENT: NONE.

Commissioner Weston indicated that there are two different projects to be considered regarding the street issues. He continued by asking that a future agenda item be placed to discuss the Monterey/Madrona Parkway extension plans and the landscaping requirements which should be tied while reflecting the differing projects.

Commissioner Acevedo was excused at 7:17 p.m. for the next scheduled item.

**3) ZA-01-20:
TENNANT-
SAFEWAY**

A request for approval of an amendment to the precise development plan for a 21.34 acre shopping center located on the south east corner of the intersection of Tennant Ave. and Monterey Rd. The PUD amendment will allow for the reconstruction and addition to an existing shopping center.

In addressing the prepared staff report, SP Linder said: The applicant is requesting an amendment to the existing PUD in order to demolish 38,452 sq. ft. of existing 233,350 sq. ft. buildings and replace it with 66,299 sq. ft. for an overall increase of 23,747 sq. ft. As part of the enlargement of the center, a traffic signal will be installed on Tennant Ave. at the Church St. intersection. The new signalized intersection will function as the main entrance to the shopping center. The proposed remodel and addition to the shopping center to the extent possible, will need to conform to the City's PUD ordinance as contained in chapter 18.30 of the Municipal Code. The uses proposed within the PUD amendment are all consistent with the current uses in the center with the exception of the fuel center. The PUD guidelines proposed for the center follow the permitted and conditional uses allowed within the General Commercial zoning district. As a conditional use, the fuel center proposal within the PUD will need to return to the Commission for conditional use permit approval.

Noting that Planned Unit Development Guidelines for the shopping center have been developed and were provided to the Commissioners as "Exhibit B" for the Resolution No. 02- 27, SP Linder reiterated the following list of specific concerns with the PUD as currently proposed:

- 1) Vineyard Boulevard Access and On-site Circulation

2) Building Height and Transition

As proposed, the applicant is not proposing to lower the parapet height on the east elevation. The Commission will need to determine whether a transition between the relative building heights is still an issue.

3) Security Lighting

4) Existing Landscape Areas

5) Architectural Compatibility

6) Fuel Center Design

Providing the staff recommendation to the Commissioners, SP Linder said, "We need to have direction provided to staff and to the applicant regarding any changes to the precise development plan and PUD Guidelines. It is recommended the Planning Commission modify if necessary, and adopt the provided resolution recommending City Council approval of amendments to the precise development plan and approval of Planned Unit Development guidelines for the Tennant Station shopping center."

Commissioner Weston had provided two sketches containing prospective changes in the building designs. He stressed the drawings were merely sketches to augment the progress made by the applicant, suggesting there are some design issues to be improved upon. It was reiterated that the applicant has made many of the changes suggested changes, including: moving the canopy, increasing the landscaping, lowering the canopy over the fuel station/pump islands. Commissioners felt, however, there is 'still work to be done'.

Commissioner Lyle asked about the availability of the traffic study since it was of critical importance for evaluation of directional patterns, etc., for the project.

Commissioners asked for clarification on the following items:

- number of fuel pumps
 - signage (this was addressed in depth throughout the discussion)
 - mention of 'exceptions' throughout the documents provided by the applicant
 - heights of (Safeway) building in contrast to adjacent structures
 - when the traffic study would be completed
- (These items were subsequently addressed during the public hearing.)

Chair Sullivan opened the public hearing.

Mike LaBarbera, 1765 Lucca Place, applicant and property owner, said that the number of pumps is 12; even though 14 had been mentioned at the very beginning 'way back

when' that had been changed and the intent was to have 12 as pictured on the drawings provided to the Commissioners. He showed a traffic study which he said he has been in his possession since February. He stated that he did not know why the Commissioners did not have the study, since because the City contracted for the study, he cannot communicate with those persons conducting the research.

Galen Grant, 301 Hartz Ave #213, Danville, Architect for the project, said he hoped to gain the Commissioner's approval for the project this evening. He addressed the issues raised and spoke to the alterations achieved on the plan.

- driveway/aisleway at the main entry
- landscaping
- building height; it was noted that the current request is to have the Safeway building at 35', however 'we can live with 33' which is achievable under the administrative policies of the City in granting variances of building heights'.
- the addition of lighting in pedestrian walkway areas
- new landscape plan (which Jeff Lee presented and discussed
- paint color and roof colors which have been agreed to
- modification of signage / both in size and scope
- open space
- trash enclosures (Should not be open nor visible from the street)

The issue of perceived 'exceptions' requests was brought up; Mike LaBarbera explained that the number of items on the title report and were not requests for exceptions in the zoning or use permits.

Concern was voiced regarding the absence of an 'exit clause' should the fuel station not be a viable business. Mike LaBarbera elucidated that this was part of the contract with Safeway. It was explained by Safeway officials (who were present but did not complete speaker cards) that other areas required a 1-year 'no business' - remove the facility requirement; furthermore, the Safeway representatives agreed this would be possible here.

With no others wishing to address the Commissioners, the public hearing was closed.

Discussion ensued among the Commissioners with the following issues being identified for conclusion before adoption of Resolution No. 02-27:

- inclusion of an 'exit clause', including but not limited to the requirement of a bond for the purpose of removal and clean up of the fuel site
- placement of a specimen size tree for visual landscaping at the corner of Monterey and Tennant for visual balance to the landscaping
- the monument sign at the corner is to be of a curved linear design
- lighting upgrades throughout the project to meet the minimum requirements of City Police

- administrative exception decision to the height requirement (may allow a 3' increase to minimum if agreement by the Planning Department)
- drive aisles from the first drive cut to the corner, shall be reduced to 25'. The excess pavement, approximately 8' on the Monterey side and 5' on the Tennant side, shall be incorporated into the landscape area.
- shrubbery (possibly in containers) will be placed along the east side of the drive aisle for the Vineyard Street entrance.
- there will be a one-year review(or as warranted) to review safety issues
- trash receptacles enclosures will be relocated with one behind the kiosk
- direction will be provided to the ARB to study the possibility of art /purpose on the wall at the East elevation
- additional lighting will be placed on both the east and west sides of the Safeway building to lessen the 'tunnel' effect
- direction will be provided to the ARB to study the possibility of sign (both size and numbers) reduction in the project.
- a trash receptacle enclosure will be placed on pad 5, with trellises placed to conceal the trash bin

Note: During discussion at the April 23, 2002 meeting, regarding this item, Commissioner Weston indicated he did not feel enough direction had been provided to the ARB regarding specific items. He was encouraged to write a letter to the ARB expressing his views.

With the inclusion of the immediately preceding list, **COMMISSIONERS MUELLER/ BENICH OFFERED RESOLUTION NO. 02-27, RECOMMENDING APPROVAL OF AMENDMENTS TO THE PRECISE DEVELOPMENT PLAN AND APPROVAL OF PLANNED UNIT DEVELOPMENT GUIDELINES FOR THE TENNANT STATION SHOPPING CENTER. THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: BENICH, McMAHON, MUELLER, SULLIVAN, WESTON; NOES: LYLE, WHO WAS DISPLEASED AT THE ABSENCE OF THE TRAFFIC STUDY; ABSENT: ACEVEDO; ABSTAIN: NONE.**

Commissioners requested that the resolution be returned to a subsequent meeting as an informational item to facilitate the insertion of all those items listed above.

Commissioner Acevedo returned to the meeting at 9:30 p.m. following the vote and was seated with the Commission.

NEW BUSINESS:

**4) RDCS
ALLOTMENTS IN
ANNUAL MICRO**

- a) **MICRO MEASURE P, MMP-02-01: NINA LANE-CHEN:** A request for a residential building allotment for five single-family dwellings (three detached units and two attached units) on a .61-acre site located on the east side of Juan

**PROJECT COM-
PETITION FOR
FY 2003-04**

Hernandez Dr., just north of San Vicente Rd.

- b) **MICRO MEASURE P, MMP-02-02: DEWITT-MARQUEZ:** A request for a residential building allotment for five single-family detached dwellings on a 2.0-acre site located on the west side of DeWitt Ave., approximately 1,000 ft. south of Dunne Ave.

(Both items were reported by SP Linder concurrently, then discussed separately)

SP Linder gave the staff report, part of which dealt with a change in scoring for the Chen property. Staff recommended a final score of 150 points for the Chen project and 147 for the Marquez project. An additional point was given the project in the category of *Orderly and Contiguous*.

Chair Sullivan pointed out that the action before the Commission this evening is to deal with the (dis)/approval of the points only. There is no action to be taken on any other issues, such as those raised by surrounding property owners and neighbors for item 4B - those matters will be addressed at another time. For the audience who might not know the methods of the point system and resulting allocations, a brief overview was provided.

Commissioner Mueller asked questions regarding the response on the project from the fire department. SP Linder said the department had used the most up-to-date-maps for their response. Commissioner Mueller asked that the staff information provided by the fire department be presented to him.

Chair Sullivan opened the public hearing, noting the intent to hear 4A first.

Vince Burgos, 352 S. Eagle Nest Ln., Danville, is the engineer for the project and responded to questions from the Commissioners.

Emily Chen, 210009 Seven Springs Parkway, is the owner/developer of the project. She provided an overview of her work on other developments in the City and surrounding areas. Responding to questions from the Commissioners, Ms. Chen said she is committed to working with developers of the Shaw project and while there is no dependency for improvements/infrastructure, she intends to deliver a quality project with adjoining neighbors.

Regarding item 4B, Bill McClintock, PO Box 1029, identified himself as the engineer for the project. He appeared before the Commission to speak to the issues he had raised in the letter submitted regarding the project:

Mr. McClintock requested reconsideration of the following items:

- Schools page 8, criteria 2. A. iii
- Orderly and Contiguous page 16, criteria 2.

Commissioner Benich pointed out that the application did not include data regarding the prices of the prospective home. Mr. McClintock said it was anticipated they would be in the range of low \$600K to the mid \$700K.

Cynthia Bunch, 16830 Price Drive, addressed the Commissioners as the spokesperson for several members of the audience were in attendance to reiterate concerns submitted in a letter.

With no others present wishing to address the item, the public hearing was closed.

COMMISSIONERS MUELLER/McMAHON MOTIONED TO APPROVE A SCORE OF 150 POINTS FOR THE CHEN PROJECT IF THE SHAW MAP HAS RECORDED. OTHERWISE, THE SCORE IS TO REMAIN AT 149 POINTS FOR MP-02-01. THE FINAL SCORE FOR MP-02-02 OF 147 POINTS. THE MOTION PASSED BY THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT.

In providing direction for staff regarding the actual allocations in this category, Commissioners intently discussed the issues. *Noting that final allocations will be determined following a presentation of department of finance numbers anticipated to be received by the City in early May, 2002*, staff was directed to have prepared for the May 14, 2002 meeting data for allocating 5 units in this category. Priority should be given to the highest scoring project.

5) MP-01-12: E. DUNNE-FIRST COMMUNITY HOUSING

A request for 38 residential building allotments for FY 2003-04. The overall project consists of 100 apartment units; 62 allotments have already been awarded. The overall site is approximately 7.2 acres and is located at the southeast corner of E. Dunne Ave. and Butterfield Blvd. SP Linder presented the staff report.

SP Linder announced that Staff received one application for the affordable competition. The application is from First Community Housing. The current request for 38 units represents the final phase of the 100-unit development.

SP Linder continued by indicating there is a maximum of 12 points available in Part 1. At least 9 points are necessary for a project to be further evaluated under the design criteria contained in Part 2. In addition, a project must receive at least 1 point under Police and Fire Services category and 1 point under the Street and Parks category to pass Part 1. The First Community Housing Project received a passing score under Part 1.

The First Community Housing project failed, SP Linder advised, to receive a minimum passing score in the Safety and Security category, receiving two points in the category. Therefore, the project is not eligible to receive the affordable building allotments unless the applicant is allowed to modify their application to increase the score in that category.

Attention was turned to the possibility of an *Amended Project Application* by SP Linder, who said in the Measure P competition, projects are evaluated according to the plans and commitments as outlined in the project narratives. Applicants are not allowed to make changes once the application is accepted for processing. If this were a true competition, First Community Housing would be ruled ineligible based on the failure to receive a minimum score outlined above, and the competition would be limited to the other projects in the competition. However, because First Community Housing is the only applicant for the affordable building allotment set-aside, the Planning Commission has four options:

1. Based on review of the application and testimony received, determine that the First Community Housing project should receive passing scores in the Safety and Security Category.
2. Make findings that First Community Housing has failed to receive a minimum passing score. Given that no other project is available to receive the allotments, recommend to the City Council that the affordable allotments be redistributed to another set-aside category.
3. Make findings that First Community Housing has failed to receive a minimum passing score. Given that no other project is available to receive the allotments, recommend to the City Council that the competition be reopened to new applications to distribute the allotments within the affordable set-aside.
4. Direct staff to meet with First Community Housing to identify changes they would need to make, in order to receive a minimum passing score in the Safety and Security category.

For this year's competition, Staff recommended the Commission allow First Community Housing to revise their application to receive a minimum passing score in the Safety and Security category.

Commissioner McMahon commented that this is a 'Gateway' project, and she would be inclined to open the project for further competition.

Commissioners expressed reluctance to break with past practice in having the application changed.

Chair Sullivan opened the public hearing.

Tom Iamesi, Director of Housing, 2 North Second St, Suite 1250, San Jose, asked that Commissioners consider this as one project. He stressed that the safety factor in putting in sprinklers and monitoring systems is very important to the future residents and his organization is committed to safety for those persons. Mr. Iameki said there was intent to be consistent throughout the project with sprinklers and safety monitoring equipment and they had been working with the fire and police departments to achieve this

objective. Even though a resubmittal of the application would create delays, Mr. Iameki said, there is full intent to complete the project.

With no others present to address the matter, the public hearing was closed.

Commissioners, in discussion, indicated they would like to see the project go forward and believed staff's recommendation to be correct and accurate, noting that the applicant had inadvertently omitted points which should have been correctly credited to the project on the application.

Noting this is a continuing application, there has been no other competition forthcoming to submit an application in this category, that these issues constitute special circumstances, and further, that the matter will be returned to the Commission for further action, **COMMISSIONERS LYLE/MUELLER MOTIONED TO ALLOW THE APPLICANT TO SUBMIT A CHANGE TO THE APPLICATION INDICATING THAT THE CRITERIA FOR SAFETY AND SECURITY ARE SUFFICIENT TO RECEIVE THE MINIMUM NUMBER OF POINTS FOR AWARD OF ALLOTMENTS IN THIS CATEGORY UNDER THE MEASURE P COMPETITION. THE MOTION PASSED BY THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT.**

OTHER BUSINESS:

6) MULTI-FAMILY VACANCY RATE REPORT Approval of Multi-Family Vacancy Rate Report by minute action.

COMMISSIONERS LYLE/McMAHON MOTIONED TO ACCEPT THE REPORT AS PRESENTED. THE MOTION PASSED BY THE FOLLOWING VOTE: ACEVEDO, BENICH, LYLE, McMAHON, MUELLER, SULLIVAN, WESTON; NOES: NONE; ABSENT: NONE; ABSTAIN: NONE.

7) APPOINTMENT OF REAL ESTATE REP TO THE MEASURE P SUBCOMMITTEE Consider whether to include real estate representative on the Measure P Subcommittee.
SP Linder presented the staff report. At the March 26, 2002 meeting, the Planning Commission appointed three Commissioners, Benich, Lyle and Mueller, to serve on this year's Planning Commission Subcommittee on Measure P. Carolyn Hipp and Rocke Garcica were selected as home builder representatives, and Vince Burgos the alternate.

Prior to the last Commission meeting, staff received a request from a local realtor, Maureen Upton, requesting an opportunity to serve on this year's Subcommittee.

Chair Sullivan opened the public hearing.

Maureen Upton, 800 E. Dunne Ave, appeared to ask to be named to the subcommittee. She provided information regarding her qualifications and interest. Ms. Upton said she had written a letter to the Planning Manager in January suggesting the inclusion of a

real estate representative to the subcommittee, but had not had a response. Ms. Upton said she had approached the two members who had been named to the subcommittee, suggesting that she replace one of them. Negative response had been received as both parties are active and have been in the competition process for quite some time.

The public hearing was closed.

During discussion, Commissioners identified three possible methods of solution:

- 1) Add an additional alternate - to be chosen from the real estate community
- 2) Add an additional alternate - to be present only when the first alternate is absent
- 3) Add a representative of the real estate community, as this would provide a different perspective

Commissioners declined to change the composition of the subcommittee, instead suggesting that Ms. Upton contact the alternate chosen to see if an agreement could be reached for inclusion by the real estate community.

Optionally, Commissioner Mueller suggested that if the development community which has been actively involved with the subcommittee wants a second alternate, that the group reach conclusion as to the best method of choice.

ANNOUNCEMENTS:

SP Linder asked any interested Commissioners to contact staff regarding attendance at the upcoming Riparian Renaissance Workshop.

Commissioners have been invited to attend a workshop presented by Santa Clara County on growth in the area.

SP Linder reported that the City Council had agreed with the position of the Planning Commission in the matter of Hale/Delco, and the two matters of the General Plan which the Planning Commission has dealt with. However, there were some questions regarding Villa Heights, which was continued to the April 17 City Council Meeting.

ADJOURNMENT: There being no further business, Chair Sullivan adjourned the meeting at 10:46 p.m.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk

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APRIL 9, 2002
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